IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

DORIA M.,
Appellant,

v.

DEPARTMENT OF CHILD SAFETY, D.L., L.L., AND V.M.,
Appellees.

No. 2 CA-JV 2014-0065
Filed November 17, 2014

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Civ. App. P. 28(c); Ariz. R. P. Juv. Ct. 103(G).

Appeal from the Superior Court in Pinal County
No. S1100JD201100134
The Honorable Kevin D. White, Judge

AFFIRMED

COUNSEL

Law Firm of Richard Luff, LLC, Tucson
By Richard Luff
Counsel for Appellant

Thomas C. Horne, Arizona Attorney General
By Cathleen E. Fuller, Assistant Attorney General, Tucson
Counsel for Appellee Department of Child Safety

MEMORANDUM DECISION

Presiding Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Espinosa concurred.

M I L L E R, Presiding Judge:

¶1 Appellant Doria M. appeals from the juvenile court's March 2014 order terminating her parental rights to her children, D.L., L.L., and V.M., on the ground they had been in court-ordered, out-of-home placement for more than fifteen months. *See* A.R.S. § 8-533(B)(8)(c). Doria contends the court erred because the Department of Child Safety (DCS)[1] had "delayed reasonable implementation of its plan of reunification," causing the children to be in placement longer than fifteen months.

¶2 When reviewing a juvenile court's order terminating parental rights, we "will not reweigh the evidence but will look only to determine if there is evidence to sustain the court's ruling. 'We will not disturb the juvenile court's disposition absent an abuse of

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[1]Effective May 29, 2014, the Arizona legislature repealed the statutory authorization for Child Protective Services (CPS) and for the Arizona Department of Economic Services (ADES) administration of child welfare and placement services under title 8 and transferred powers, duties, and purposes previously assigned to those entities to the newly established Department of Child Safety (DCS). *See* 2014 Ariz. Sess. Laws 2d Spec. Sess., ch. 1, §§ 6, 20, 54. Accordingly, DCS has been substituted for ADES in this matter. *See* Ariz. R. Civ. App. P. 27. For simplicity, our references to DCS in this decision encompass both ADES and the former CPS.

discretion.'" *Mary Lou C. v. Ariz. Dep't of Econ. Sec.*, 207 Ariz. 43, ¶ 8, 83 P.3d 43, 47 (App. 2004), *quoting Maricopa County Juv. Action No. JV-132905*, 186 Ariz. 607, 609, 925 P.2d 748, 750 (App. 1996). We will affirm the court's order "unless the findings upon which it is based are clearly erroneous and there is no reasonable evidence supporting them." *In re Pima Cnty. Juv. Action No. 118537,* 185 Ariz. 77, 79, 912 P.2d 1306, 1308 (App. 1994).

¶3 We view the evidence in the light most favorable to upholding the juvenile court's ruling. *See Michael J. v. Ariz. Dep't of Econ. Sec.*, 196 Ariz. 246, ¶ 20, 995 P.2d 682, 686 (2000). In July 2011, Doria's mother filed a dependency petition, alleging Doria was homeless and using methamphetamine and marijuana. Doria's mother had been caring for the children for a few months. The children were adjudicated dependent as to Doria in August 2011, and the children were placed with the maternal grandmother.[2] Doria was referred for substance abuse treatment, but the agency could not contact her. She also failed to participate in random drug screens, parenting classes, parent aide services, and visitation.

¶4 In January 2012, Doria was admitted to inpatient drug treatment, but she did not complete the program. She participated sporadically in random drug screening, missing multiple required tests. She had no stable housing or employment and was not consistent in attending visitation with the children or parenting classes. Dr. Carlos Vega gave Doria a psychological evaluation in late August 2012 and determined she had "significant personality and substance abuse disorder[s]" that required psychotherapy. Vega also stated in his report that Doria "may in fact profit from a psychiatric assessment for medications purposes." By January of 2013, however, Doria still had not established stable housing, was not consistent with visits or parenting classes, and was out of contact with the DCS from September to December of 2012.

¶5 Doria eventually was assigned to a therapist in March 2013 and began psychotherapy in April. At a permanency planning

[2]The children's father is deceased.

hearing that month, DCS reported Doria was doing well and participating in services. In a progress report filed with the court in advance of the hearing, the caseworker noted that Doria had been regularly attending substance abuse treatment groups and participating in drug screening, "although not consistently." The report indicated that her visits with the children had been going well, but she still did not have stable housing or income to support them and was living with a relative. The caseworker also stated that, although Doria was engaging in services, "[t]he children need[ed] permanency soon, so if [Doria] [wa]s not consistent or making the progress needed, a change in case plan [would] be required." In July 2013 the case plan was changed from reunification to severance and adoption because Doria had completed substance abuse treatment, but had only sporadically attended counseling sessions and had not established stable housing or a legal source of income. DCS filed a motion for termination of Doria's parental rights, alleging grounds of chronic substance abuse and length of time in court-ordered, out-of-home care pursuant to § 8-533(B)(3), (B)(8)(a), and (B)(8)(c).

¶6 In October 2013, Doria's therapist reported Doria had been attending therapy regularly but continued to have issues that needed to be addressed. After further evaluation was suggested, Doria participated in a psychiatric evaluation in January 2014. No medications were suggested as a result of the evaluation, and the psychiatrist recommended continued therapy and cognitive testing. DCS did not refer Doria for such testing.

¶7 At the contested severance hearing in February 2014, DCS moved to dismiss the substance abuse and nine-months-in-care grounds. *See* § 8-533(B)(3), (B)(8)(a). The hearing proceeded solely on the ground that the children had been in court-ordered, out-of-home care for more than fifteen months. At the hearing, Doria testified she had stopped using methamphetamine and marijuana in November 2011, but acknowledged she was unemployed and had been unable to keep a job for more than several months at a time. She admitted she had not been able to live independently, could only provide the children with food through government support,

had no driver license, and would need until December 2014 to be able to independently care for the children.

¶8 The DCS case manager testified that although Doria had participated in therapy, her behavior had not changed. She had stopped attending parenting classes "abruptly in the middle" and was still unable to meet her own needs, "mov[ing] from relative to relative." The case manager acknowledged a delay in obtaining a psychiatric assessment, but she emphasized that Doria had received the suggested therapy and had not been found to need medication. She also testified she believed further services would be futile.

¶9 The juvenile court found, inter alia, that the children had been in court-ordered, out-of-home placement for more than fifteen months and DCS had "made a diligent effort to provide appropriate reunification services." The court noted that although Dr. Vega had recommended a psychiatric evaluation and DCS had not provided such an evaluation until January 2014, the evaluation did not result in Doria being prescribed any medication. Thus, the court found, Vega's belief that medication would be helpful "proved to be unfounded" and any delay in providing the evaluation "did not obstruct, impede or prevent reunification of the family." Likewise, the court concluded that although cognitive testing was recommended at the January evaluation, DCS was "not required to provide every conceivable service" in order to show reasonable efforts had been made to reunify the family. The court also concluded severance was in the children's best interests; it therefore ordered Doria's parental rights terminated on the time-in-care ground alleged. *See* § 8-533(B)(8)(c).

¶10 On appeal, Doria maintains the juvenile court erred in severing her parental rights because DCS "by its own mismanagement, delayed reasonable implementation of its plan of reunification." She argues that because DCS did not provide the psychiatric evaluation Dr. Vega had recommended until shortly before the severance hearing, DCS did not make a diligent effort to provide appropriate services, as required by § 8-533(B)(8), and severance therefore was not warranted.

¶11 We conclude, however, that the juvenile court's findings of fact and conclusions of law are supported by the record and that its correct and thorough ruling will allow any court in the future to understand its conclusions. *See Jesus M. v. Ariz. Dep't of Econ. Sec.*, 203 Ariz. 278, ¶ 16, 53 P.3d 203, 207-08 (App. 2002); *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore need not repeat its decision in its entirety here and, instead, adopt the court's ruling. *Whipple*, 177 Ariz. at 274, 866 P.2d at 1360.

¶12 We write further only to address Doria's specific claims that the juvenile court's conclusions were "flawed" in a few regards. She argues that in relation to Dr. Vega's recommendations, had the psychiatrist's report "c[o]me sooner, it would have allowed Dr. Vega and the therapist time to re-evaluate and modify their treatment regimens and recommendations to include psychotropic medications well within the 15-month period." But, Vega's recommendation was made in August 2012, a year after the children were taken into care, and Doria was out of contact with DCS from September through December of 2012. Furthermore, as the juvenile court noted, no medication was recommended as a result of the psychiatric evaluation, so it is unclear how Vega or Doria's therapist would have included "psychotropic medications" in her treatment, as she suggests they would have had the evaluation been done earlier.

¶13 Doria also contends the juvenile court's conclusions were "flawed" because the psychiatrist recommended "psycho-educational and cognitive testing, which were never provided." And she maintains that DCS had "praised [her] for doing well" and then suddenly recommended severance two months later without "getting her the recommended treatment." She argues "only seven of the fifteen months" that the children were in care was "due to [her] inability to participate." The record, however, does not support her characterization of events.

¶14 As detailed above, Doria did not meaningfully participate in services until early 2013. At that point, the children had already been in care for at least seventeen months—from

August 2011 until January 2013. Even then, although DCS reported in April 2013 that Doria was engaging in services, it also cautioned that unless she could make progress in terms of behavioral changes, it would seek severance. Thus, far more than seven months of the children's time in care was due to Doria's failure to comply with her case plan. DCS "is not required to provide every conceivable service or to ensure that a parent participates in each service it offers," *In re Maricopa Cnty. Juvenile Action No. JS-501904*, 180 Ariz. 348, 353, 884 P.2d 234, 239 (App. 1994), and reasonable evidence supported the juvenile court's conclusion in this case that DCS had been diligent in providing services.

¶15 For the reasons above, the juvenile court's order terminating Doria's parental rights is affirmed.